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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax

COUNCIL IMPLEMENTING DECISION (EU) 2016/...

of ...

**amending Decision 2007/441/EC
authorising the Italian Republic to apply measures
derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC
on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹, and in particular Article 395 thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) By virtue of Decision 2007/441/EC¹, Italy was authorised, until 31 December 2010, to limit the right to deduct VAT charged on expenditure on certain motorised road vehicles not wholly used for business purposes to 40 %. That Decision also provides that the use for private purposes of such vehicles is not to be considered as a supply for a consideration. In addition, certain categories of vehicles and expenditure are excluded from the scope of that Decision.
- (2) Decision 2007/441/EC was subsequently amended by Implementing Decision 2010/748/EU² and by Implementing Decision 2013/679/EU³, which extended the expiry date of those measures (the 'derogating measures') to 31 December 2016.

¹ Council Decision 2007/441/EC of 18 June 2007 authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 165, 27.6.2007, p. 33).

² Council Implementing Decision 2010/748/EU of 29 November 2010 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 318, 4.12.2010, p. 45).

³ Council Implementing Decision 2013/679/EU of 15 November 2013 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 316, 27.11.2013, p. 37).

- (3) By letter registered with the Commission on 31 March 2016, Italy requested authorisation to extend the derogating measures.
- (4) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States, by letter dated 22 June 2016, of the request made by Italy. By letter dated 23 June 2016, the Commission notified Italy that it had all the information necessary to consider the request.
- (5) In accordance with Article 6 of Decision 2007/441/EC, Italy submitted a report to the Commission covering the application of the Decision, including a review of the percentage limitation. The information provided by Italy shows that a restriction of the right of deduction to 40 % still reflects current circumstances as regards the ratio of business to non-business use of the vehicles concerned.
- (6) Italy should therefore be authorised to continue to apply the derogating measures for a further limited period, until 31 December 2019.

- (7) In the event that Italy requires a further extension beyond 2019, a report should be submitted to the Commission together with the extension request by no later than 1 April 2019.
- (8) The extension of the derogating measures has no impact on the Union's own resources accruing from VAT.
- (9) Decision 2007/441/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Articles 6 and 7 of Decision 2007/441/EC are replaced by the following:

'Article 6

Any request for the extension of the measures provided for in this Decision shall be submitted to the Commission by 1 April 2019.

Any request for the extension of those measures shall be accompanied by a report which includes a review of the percentage restriction applied on the right to deduct VAT charged on expenditure on motorised road vehicles not wholly used for business purposes.

Article 7

This Decision shall expire on 31 December 2019.'

Article 2

This Decision shall apply from 1 January 2017.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels,

For the Council

The President
